

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Eric Wong,

Plaintiff, Civil No. 13-CV-3075 (PAM/SER)

v.

James L. Cohen, LLC; I Like You
LLC; and Fox Tax, LLC,

**DEFENDANT
FOX TAX, LLC'S
ANSWER**

Defendants.

Defendant Fox Tax, LLC (“Fox Tax”) denies each and every allegation in the Complaint, except as otherwise expressly admitted or qualified below, and further states and alleges as follows:

INTRODUCTION

1. Fox Tax is without sufficient information to admit or deny the allegations in Paragraph 1, including whether Plaintiff is disabled, and therefore denies the same and puts Plaintiff to his strict burden of proof. Fox Tax acknowledges that Plaintiff purports to bring various claims against it and other Defendants, but specifically denies any and all wrongdoing and liability, and denies that Plaintiff is entitled to the relief against Fox Tax, and otherwise denies the remaining allegations in Paragraph 1.

2. Denies the allegations in Paragraphs 2 through 4 of the Complaint.

JURISDICTION AND VENUE

3. As to Paragraphs 5 and 6, Fox Tax acknowledges that Plaintiff purports to seek relief, and further admits that Fox Tax is located and transacts business within the District of Minnesota and that venue and jurisdiction are appropriate in the United States District Court for the District of Minnesota. Fox Tax otherwise denies any and all factual allegations against it in these paragraphs.

PARTIES

4. States that it sufficient information or belief to admit or deny the allegations in Paragraphs 7, 8, 9, and 10 of the Complaint and therefore denies the same.

5. States that it is a Minnesota limited liability company with a registered address of 343 E 43rd Street, Minneapolis, MN 55413, and that it leases space located at 503 1st Ave. NE, Minneapolis, MN 55413, but otherwise denies the allegations in Paragraph 11.

6. States that it is without sufficient information to admit or deny the allegations in Paragraphs 12, 13, 14, 15, 16, 17, and 18 of the Complaint and therefore denies the same.

THE ADA AND ITS IMPLEMENTING REGULATIONS

7. States that 42 U.S.C. § 12101 *et seq.* speaks for itself and that Paragraphs 19 through 29 state only legal conclusions to which no response is required. To the extent those paragraphs are deemed to contain any factual allegations, Fox Tax denies them.

FACTUAL ALLEGATIONS

8. States that it lacks sufficient information or belief to either admit or deny the allegations contained in Paragraph 30 of the Complaint and therefore denies it.

9. Denies the allegations contained in Paragraphs 31, 32, 33, 34, and 35 of the Complaint as they pertain to Fox Tax.

10. States that it is without sufficient information to admit or deny the allegations in Paragraphs 36 and 37 of the Complaint and therefore denies the same.

11. Denies the allegations in Paragraph 38.

12. In response to Paragraph 39, Fox Tax restates and realleges the above paragraphs as if fully set forth herein.

13. States that Paragraphs 40 and 41 state only legal conclusions to which no response is required, and Fox Tax otherwise denies the same.

14. Denies the allegations in Paragraphs 42 through 47, and otherwise states that 42 U.S.C. § 12188, 12205, and 12117, and 28 CFR § 36.505 speak for themselves.

15. In response to Paragraph 48, restates and realleges the above paragraphs as if fully set forth herein.

16. States that Paragraphs 49 and 50 state only legal conclusions to which no response is required, and that Minn. Stat. § 363A.11 speaks for itself. To the extent any of those Paragraphs are deemed to contain factual allegations, Fox Tax denies the same.

17. Denies the allegations in Paragraphs 51, 52, and 53 of the Complaint as they pertain to Fox Tax.

18. States that it lacks sufficient information or belief as to Plaintiff's specific plans, but otherwise denies the allegations in Paragraph 54 as they pertain to Fox Tax.

19. States that Minn. Stat. § 363A.11 speaks for itself, denies that Plaintiff is entitled to any relief, and otherwise denies the allegations contained in Paragraphs 55 and 56.

ADDITIONAL AND AFFIRMATIVE DEFENSES

20. Plaintiff's Complaint, in whole or in part, fails to state a claim upon which be granted.

21. Plaintiff's claims fail for lack of subject matter jurisdiction.

22. Plaintiff lacks standing to challenge the alleged architectural barriers in the premises that Plaintiff did not visit or sufficiently visit prior to serving the Complaint.

23. Plaintiff's claims are barred, in whole or in part, because the requested relief is not "readily achievable" or easily accomplishable and able to be carried out without much difficulty or expense within the meaning of 42 U.S.C. § 12181(9).

24. Fox Tax has made good faith efforts to comply with the ADA and MHRA, and further alleges that its conduct was undertaken by lawful means to achieve lawful results, and that Fox Tax did not intentionally discriminate against Plaintiff.

25. Plaintiff's claims are, in whole or in part, moot or may become moot.

26. Plaintiff's claims are barred because he was not damaged or injured by any violation of the MHRA or the ADA.

27. Plaintiff has failed to mitigate his alleged damages.

28. Plaintiff's claims are barred by the doctrines of estoppel, unclean hands, waiver, laches, excuses and en pari delicto.

29. Plaintiff's claims are barred to the extent they interfere with Fox Tax's compliance with the laws and regulations that are equally applicable to all persons.

30. Fox Tax states and alleges that it is entitled to assert all affirmative defenses available for claims alleged under the ADA or MHRA as evidence demonstrates.

31. Fox Tax incorporates all affirmative defenses stated or contemplated by Rule 8 of the Federal Rules of Civil Procedure as fully set forth herein and reserves the right to assert additional affirmative defenses as discovery progresses.

* * *

WHEREFORE, Defendant Fox Tax, LLC demands judgment dismissing Plaintiff's Complaint against it, with prejudice, and awarding to this answering Defendant its costs, disbursements, attorneys' fees and any other relief appropriate at equity or law.

SNYDER GISLASON FRASIER, LLC

Dated: November 20, 2013

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**ATTORNEYS FOR
FOX TAX, LLC**